

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Jonathan Paul Johnson,)	Cr. No. 3:04-0545-MJP
)	
Movant,)	
)	
v.)	ORDER AND OPINION
)	
United States of America,)	
)	
Respondent.)	
_____)	

Jonathan Paul Johnson (“Movant”), a pro se prisoner, seeks to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. Movant is presently custody of the Federal Bureau of Prisons, pursuant to commitment order from the United States District Court for the District of South Carolina.

Movant filed the within § 2255 motion on November 17, 2008. Movant’s § 2255 sets out the following three grounds for relief: (1) that his prior convictions for assault and battery of a high and aggravated nature and failure to stop for a blue light and siren should not be considered crimes of violence with regard to raising his base offense level under U.S.S.G. §2K2.1(a)(2); (2) that he is “actually innocent” of the two-point enhancement under U.S.S.G. §2K2.1(b)(4) for the firearm having an obliterated serial number because the obliterated serial number was not alleged in the indictment; (3) that he is “actually innocent” of the enhancement under U.S.S.G. §2K2.1(b)(5) as it was impermissible double-counting since he was charged and plead to a charge of felon in possession of a firearm.

The court granted Movant an evidentiary hearing and resentencing pursuant to *United States v. Rivers*, 595 F.3d 558 (4th Cir. 2009). During the evidentiary hearing, the court established that Movant and Respondent agreed that Movant's South Carolina Blue Light conviction was no longer a crime of violence for purposes of the Career Offender enhancement under *Rivers*. The court also considered Movant's other grounds for relief and finds them to be without merit.

IV. CONCLUSION

Movant's § 2255 motion is GRANTED with respect to the South Carolina Blue Light conviction. Movant's § 2255 motion is DENIED as to all other grounds asserted.

IT IS SO ORDERED.

s/Matthew J. Perry, Jr.
Matthew J. Perry, Jr.
Senior United States District Judge

June 17, 2010
Columbia, South Carolina